

**ARE ALL TOURIST DEPENDANT BUSINESSES MEETING THEIR
STATUTORY OBLIGATIONS AND TAKING FULL ADVANTAGE OF
THE ENTIRE ECONOMIC VALUE OF THE TOURIST BUDGET.
(An investigation into statutory compliance for providing
reasonable adjustment to facilitate equal access for disabled
customers to goods and services)**

*Simon Mclean BSc hons MA PGCE FHEA MRICS, Chartered Building Surveyor,
Lecturer in Building Surveying at the University of Salford*

ABSTRACT

The paper identifies the economic impact of excluding disabled customers from goods and services offered at locations which are dependent upon tourist income. The economic value and spending power of disabled members of society is established. Statutory obligation to provide reasonable adjustments to property thus facilitating equal access to goods and services for disabled persons is noted. Failure to make reasonable adjustment is identified as risking a reduction in potential sales income, and/or punitive financial punishment for non-compliance with statutory obligations. These are cited as being potentially severe economic consequences for goods and service providers. A small town which currently attracts tourists and looks to the development of its tourist income is proposed and justified as a case study, for assessing current accessibility for disabled people. From a baseline of a reasonable adjustment compliant retail unit, and using the standards for providing access contained within BS8300, the author undertakes a series of simple access audits of businesses which would expect to attract tourist custom. This establishes if these businesses, and the town, are maximising all the potential tourist derived income, and complying with current statute, by providing equal access to disabled customers. Findings strongly indicate that this is not the case. With alternative venues offering a similar themed experience, a lack of accessible facilities is cited as being a potential hinderence to development of tourism income.

KEY WORDS

Discrimination, Reasonable Adjustment, Economic Consequence, Access Audit

INTRODUCTION

The economic prosperity of some towns and villages in the UK depends upon income from tourism to sustain the facilities residents utilise. This paper looks at the potential economic impact of failure to provide adequate provision for disabled persons to goods and services whose providers focus upon tourist custom. Failure to provide reasonable equal access is both in breach of current statute and additionally might mean that a significant section of the tourist market are not contributing fully to the local economy. If tourists cannot enter or function they cannot spend. According to Bulhalis and Darcy, accessible tourism provides a link between human rights and sustainability. (Bulhalis and Darcy, 2010)

This paper establishes the economic issues attached to non-compliance with statutes requiring that providers of goods and services make reasonable adjustments to the property where those goods and services are located, for disabled customers. These issues are punitive, by on one hand failure to comply with statutes enacted under criminal law, and directly economic by denying access to a significant percentage of the shopping public, who collectively control a large economic budget. Having established the drivers behind making the buildings from where goods and services are offered accessible to the disabled, it is prudent to establish if these economic drivers and the stigma attached to prosecution and punitive litigation have actually lead service providers to make the reasonable adjustments, which open up their properties to equal access for all. Unlike residents, tourists have a greater choice of veto over which attraction they choose to attend, particularly if the facilities are inaccessible to themselves or one or more of their party. Simple access audits will be undertaken on some businesses located within a small town in the English North West, which attracts high numbers of tourists to establish whether barriers to disabled access have been removed to facilitate access by disabled tourists, thus maximising the town's potential revenue from visitors. .

ECONOMIC DRIVERS FOR PROVIDING IMPROVED ACCESS FOR DISABLED CUSTOMERS

Providing access to goods and services for disabled persons was a major aim of the Disability Discrimination Act 1995, (DDA 1995), with part three of the act dedicated to the provision of reasonable access within buildings where such are on offer. All discrimination legislation is now housed within the Equality Act 2010, however the cornerstones of requirements to offer reasonable access to goods and services, are still those laid down in DDA 1995. Imrie and Kumar writing pre-DDA stated that *"the built environment has the capacity to impede and/or prevent disabled people's mobility while restricting their access to specific places"*, (Imrie & Kumar 1998). This identifies access to and movement around buildings as being a major barrier to equality for disabled people. Barnes goes further by describing the design of the built environment as being *"disabilist"*, in that it actively discriminated against the mobility and access requirements of disabled persons, (Barnes, 1991). In 1991, such comment would be a sad reflection of a situation, but post 1995, it is a description of a breach of statutory obligation.

There are however three economic issues involved in creating accessible environments. On one hand there is the economic cost and technical difficulties involved with making many buildings capable of offering reasonable access, There is also the threat of punitive action consequential to being in breach of a statute. Finally there is the potential economic losses of reducing the available customer base by exclusion of disabled customers. Goodall discusses the exclusion of disabled persons from many heritage sites and highlights the lack of disabled participation in the decision making process for improving these heritage sites. *" From the disabled tourists' perspective, choice of heritage attractions to visit remains restricted compared to that of nondisabled tourists"*, (Goodall 2006). Goodall writes of concerns about the future of heritage attractions which fail to maximise their visitor number potential. It is however Waterman and Bell who highlight the economic

disadvantage of inaccessible buildings with greatest clarity by citing that 1 in 4 UK shoppers either has a disability or is close to someone who has, (Waterman & Bell 2013). Government figures support this citing 1 in 5 of the working population and 1 in 2 retirees as being disabled, (EFDS, 2015). *“Businesses are missing a trick by not doing more to tap into this market. There are 11 million people with a disability in Britain.* (BBC 2014). Additionally the direct spending power of disabled shoppers is estimated at being 45-50 billion pounds, which equates to 10% of UK domestic consumption, (Waterman & Bell 2013). This ties in with a BBC report, *“A survey of 52 of Britain's 100 most visited attractions by charity Vitalise found 63% were not fully wheelchair-accessible. It also found that many did not train staff in disability awareness. Mark Harper MP said businesses were "missing a trick" by not actively attracting this group of visitors”,* (BBC 2014). This is a theme echoed by the Telegraph. *“it doesn't take much to make your business more disabled-friendly and I'm urging everyone in the tourism industry to look at what more they can do to better cater for disabled travellers, said Mark Harper, minister of state for disabled people. Businesses are missing a trick by not doing more to tap into this market. There are eleven million people with a disability in Britain and they and their families have a spending power of over £200bn.”,* (Telegraph, 2014). This highlights that losses of income might not just be relate to the disabled person, themselves, but to able-bodied corers and party members.

These figures should focus service industries, upon improving access, but evidence previously noted by the author suggests this is not always the case. Trade associations have highlighted the benefits of providing disabled access to their members, *“ Being accessible is good for your pub, highlights the benefits of making a pub venue as accessible as possible for disabled customers, and why being accessible is good for business, too. Issues such as staff training, improving physical access, signposting and liaising with local authorities are all covered, alongside several case studies from BBPA members showing how taking action has improved their business and helped customers”* (BBPA 2014).

Having cited the economic impacts of excluding disabled customers, there is a further monetary issue to evaluate. The Equality Act is written under criminal law, providing monetary penalties and potential for expensive litigation, for those who breach its terms. Whilst statute provides for fines up to £50,000, for non-compliance with equal access regulation, the usual punitive action is that the service provider is sued for hurt feelings, consequential to a disabled person being denied access or offered a service at lesser terms than an able bodied person. A secondary reason for litigation is marginalising a disabled person through the service provider's treatment of them, (LGUK, 2014). There are no limits to the awards which the courts can make in favour of the disabled plaintive.

DISABILITY LEGISLATION

DDA 1995 is cited as being *“An act to make it unlawful to discriminate against disabled persons in connection with employment, the provision of goods, facilities and goods or the disposal or management of premises.”,* (LGUK, 2014). DDA 1995

also defines disability as being; *“A person has a disability for the purposes of this Act if they have a physical or mental impairment which has substantial and long-term adverse effect upon their ability to carry out normal day to day activities”*, (Gov.UK, 2014). This means that disabled people do not all use wheelchairs; and indeed only 8% of disabled people do use a wheelchair, (EFDS, 2015). Disabled people may have a physical disability, an auditory disability, a visual disability or a mental/perceptual disability. The majority of disabilities are not visible, (EFDS, 2015). In terms of the statute, the nature of the disability does not matter, so long as each disabled group finds equality of access. It does however extend the duty of the service provider beyond provision of wheelchair access, (Grant & MacNamara, 2013).

The act requires reasonable adjustments to facilitate equal access. (Wikipedia, 2015a). Reasonable adjustment means that although provision of equal access is a statutory requirement, due to cost in relation to turnover, technical difficulty or conflicting statute those adjustments might not be reasonable. It may also be reasonable for economic considerations to defer action against future budgets, leaving barriers to access in place short or medium term. The human rights commission cite the following reasons for an adjustment being justified as unreasonable; These are the practicality of the works, cost in relation to turnover, potential disruption, availability of funds and how much other works have been completed. (ERHC, 2014). As will be shown later, an unilateral decision that adjustment is unreasonable, without a proper documented investigation and evaluation will not prove a successful defense against actions under the Equality Act 2010.

Access Audits and Unreasonable Adjustment

Provision of reasonable adjustment for disabled access is a requirement of the Building Regulations under approved document M. Failure to meet required standards in plans for construction works will mean that those works would be denied Building Regulation Approval, and the works would consequentially not be legal. Standards for making buildings accessible for all categories of disability were established within the British Standard BS8300:2001. It is also BS8300, which cites the performing of an Access Audit as an essential first step to complying with disabled access regulation, (BSI, 2009). BS8300 states an audit should be undertaken to establish where the building creates barriers to access, and where the nature of the structure of the building provides constraints to access, (BSI, 2009). The need for an audit is also determined by the fact that the Equality Act 2010, is an anticipatory piece of legislation, requiring in the case of DDA, for service providers to anticipate potential barriers to access, (EFDS 2015). Declaration that an adjustment is unreasonable without a prior access audit, and a feasibility study of the options available to address a barrier to access, would not provide a defense against punitive action, even if ultimately after following the correct procedure the adjustment did prove unreasonable. The service provider would have failed to properly anticipate the barrier, and therefore could not claim to have evaluated all the options for dealing with it, before concluding that to do so was unreasonable. The options available include removal of the barrier, adjustment of the barrier, finding an alternative route which removes the impact of the barrier, relocating the service so the barrier is neutralised, changing management processes to assist disabled

customers not to be disadvantaged by the barrier and ultimately after all feasibility options have been discounted, declaring the adjustment to be unreasonable.(EH, 2004).

Practical Investigation

The methodology chosen is the completion of a number of simple access audits, to identify barriers to access, These by nature of the tourism theme to this paper will be limited to some of those establishments, which due to the nature of their businesses may expect to attract tourist customers. Premises audited included three gastro public houses which focus upon the canal, three takeaway food establishments located close to the canal side, three cafés, and three specialist goods retail units, making 12 separate businesses. Baring in mind that provision of equal access to goods and services by disabled persons, has been on the statute list for two decades , and the loss of turnover argument consequential to denying access to disabled customers for considerably longer, it might be expected that any service provider would now be reasonably Equality Act compliant. A baseline for compliance will be a newly redeveloped retail unit as being the newest example of a store created whilst following the current requirements of Part M of the building regulations.

The aim is to provide a picture of disabled access, for tourists by means of seeing how many access barriers remain to accessing the town's goods and services. Additionally it will be noted how many simple and inexpensive access aids have been installed and how many remain omitted, This will evidence how much dedicated work has been undertaken to increase access and let disabled persons know that Middlewich traders care. This will lead to conclusions on the importance the local service providers attach to compliance with statute and gaining full access to all available customer markets.

EXAMPLE OF THE ACCESS AUDIT USED

<u>ACCESS AUDIT ON PROPERTY - -----</u>			
<u>ECONOMIC ACTIVITY TYPE OF OWNERSHIP</u>			
<u>DATE..... TIME..... SURVEYOR</u>			
	DISABILITY	BARRIERS OBSERVED	COST/ DIFFICULTY
1	PHYSICAL		
2	AUDITORY		
3	VISUAL		

4	MENTAL		
5	OTHER ISSUES		

THE CHOSEN TOWN

The town chosen is one which has a rich history but most importantly a canal heritage which it uses to support the local economy with income from tourism. The town of Middlewich in Cheshire is located on the junction of three canals, used extensively by pleasure craft, the Shropshire, the Wardle and the Trent Mersey canals. It has a number of locks, where non-boaters can watch narrow boats negotiating the locks and rising and falling within. The town runs many annual canal focused festivals and activities to attract tourism, from boats and on-land visitors. Events take place at locations both canal side and within the town centre. The study will focus upon businesses which would expect to benefit from this tourist activity.

The 2011 census established the resident population of Middlewich as being 13,595, not a population size to support three fish and chip shops on one road. The population is however swelled by narrow boat users who stop in Middlewich, and visiting tourists who attend the many organised events, walk along the miles of towpath, or simply watch the boats traverse the town's numerous locks. Within a short distance of the main stretches of canal, can be found numbers of themed and other catering establishments which look towards the tourist trade. On the town's main shopping street a number of catering establishments and shops which would attract tourist custom can be found. Despite a rich history dating from Roman times canals form the cornerstone of the tourist attraction. Middlewich has long sought to harvest the tourist pound; *"Since 1990 there have been initiatives to increase the volume of tourism into the town, through events such as the annual folk and boat festival the Roman and Norman festivals, and regular farmers' markets"* (Wikipedia, 2015b)

It is the stated desire in the East Cheshire Council Local Development Plan that this tourist income should be further developed; *"To enhance the town's attraction as a tourist destination venue and attract more day and weekend visitors to the town, by virtue of more quality festivals and events, improved facilities, promotion of Heritage and Food/local produce and utilising partnership opportunities for Marketing Middlewich & Cheshire"* ((CEC, 2012)

The development plan also notes a need to improve the facilities the tourists utilise; *"Enhance the town's visitor economy through improvements to the canals and their corridors; and the development of tourist and recreation facilities and accommodation"*. (CEC, 2012).

The sheer scale of tourist income can be seen when the additional income from just one of many special events and festivals is cited as being in seven figures. "Tourism is one of the fastest growing industries in Cheshire and Congleton Borough Council has recognised the importance of Middlewich's canals in its attempts to promote tourism in the borough. Visitors to the 2003 Middlewich Folk and Boat Festival were estimated to have spent £2.3 million in the town over the two days of the festival." (Wikipedia, 2015b).

Unfortunately widening disabled access to tourist activity in Middlewich did not form part of the local development plan. It is however logical, that given the large potential tourist revenues and the significant numbers of disabled people in the general population, that the traders of Middlewich, would have embraced the statutory obligations of providing equal access as also being a business advantage.

There is a newly redeveloped small supermarket in Middlewich. It includes many features specifically included for disabled customers. The store has three dedicated disabled parking spaces close to the entrance. Access to the store is level, and has changes in colour and texture to aid visually impaired shoppers. The entrance is wide and doors are electronically controlled. The colours of openings are bold, and differentiated from other surfaces. Inside the aisles are wide, wall floor junctions clearly visible. Signage is large, clear and uses contrast colouring. There are no lighting sources that might impact on epileptic sufferers. Wheel chair users might however require assistance with some fridges and freezers. Flow is easy and uncluttered, and checkouts are usable from a wheel chair. The packing shelf is high, for a wheel chair user, but otherwise access is within reasonable limits equal. The statute states that providing such access features is unless it can be proved unreasonable so to do, mandatory for any property where goods and services are offered, including all twelve of the premises audited.

ACCESS AUDIT RESULTS

	BARRIER	GASTRO PUB	FAST FOOD	CAFE	RETAIL
1	MODIFIED APPROACH	0	0	0	0
2	DROPPED KERB	N/A	0	0	2
3	DEDICATED DISABLED PARKING	0	N/A	N/A	N/A
4	ACCESSABLE ENTRANCE	0	1	0	2
5	VISIBILITY MODIFICATIONS	0	0	0	0
6	LOWERED COUNTERS	0	0	0	0
7	EASY INTERNAL FLOW	0	2	0	1
8	COMPREHENSIBLE SIGNAGE	0	0	0	0
9	VIABLE LEVEL CHANGES	0	N/A	0	N/A
10	ACCESSIBLE TOILETS	0	N/A	N/A	N/A
11	DISABLED TOILET	0.5	N/A	N/A	N/A
12	DEDICATED DISABLED WORK	0	0	0	0

The disturbing thing about the audits undertaken, was that not one premise boasted a single feature which stated to a prospective disabled customer that any action has been taken to make access easier especially for them. Even the one separate disabled toilet was signed primarily as a baby changing area. No inaccessible premises had been visibly modified. Simple measures like dedicated disabled spaces, in existing car parks, coloured strips to make steps visible, paint colour choices to make openings visible, arrangement and choice of internal furniture to facilitate disabled use, use of bold visible menus and signage, and most importantly offering disabled people toilet facilities, had just not been undertaken. Some of these measures are not large financial outlays, but would communicate to disabled customers that effort has been made for them.

CONCLUSIONS

The economic case for attracting disabled custom is well established with figures like 1 in 5 of the adult population being disabled and an economic budget cited as being between £50 billion and including family members £200 billion. Tourist custom is possibly the hardest to keep, as tourists have a wide choice of venues or mooring points to choose from. Towns like Middlewich with a modest population depend upon outside income, to provide employment and maintain services like catering, hospitality, fast food outlets and specialist retailers, used also by residents. Evidence suggests that this economic opportunity is not being fully embraced.

Statute compels providers of goods and services to make reasonable adjustments to their premises, to facilitate equal access for disabled persons. There are financial penalties and stigma involved in being sued or prosecuted for non-compliance. An action for not making reasonable adjustments could result in a business failing. This threat apparently does not apparently universally result in compliance with the statute, and perhaps central authorities should look at more policing and greater penalties. Perhaps greater proactivity amongst disabled customers in asserting their rights might also be called for.

Whatever the reasons for premises remaining inaccessible to disabled customers, the DDA 1995 is now two decades old. Whilst supported by a strong economic benefit for making reasonable adjustments, it looks that in places nothing has actually changed. It is impossible to calculate the economic losses towns like Middlewich suffer through not being seen to be welcoming and accessible to disabled tourists, however a warning might be in canal attractions like the Anderton Boat Lift in nearby Northwich. Below is a summary of disabled facilities found there as cited by Disabled Holiday Information, a body dedicated to providing disabled tourists with information on suitability of venues..

Arrival - Designated Disabled car parking (six spaces in the adjacent municipal car park), Hard surfaced car park, Level/ramped wheelchair access to entrance (inclined pathway down to the entrance), Level/ramped wheelchair access into venue (level), Easy access around ground floor/area of site (Both floors of the visitor centre are level and the pathway down to the boat trip is zig zagged), Wheelchair access to gardens/grounds (via lift), Wheelchair access to other floors (lift with accessible control panel and room for a carer/companion down to lower floor)

Toilets - Wheelchair accessible toilet/toilets (On both levels of the centre), Grab rails in toilet, Easy access to wash basin, easy access to hand dryer/towels, Wheelchair turning space in accessible toilet, Space for left transfer to toilet, Space for right transfer to toilet, Room for carer/carers in accessible toilet

Cafe/Shop - Level/ramped access to shop (level), Level/ramped access to cafe/tearoom (level), Accessible counter/cutlery if self-service (partial but assistance available), Sufficient wheelchair access to tables, Wheelchair accessible picnic area, Wheelchair accessible picnic table/tables

Other - assistance dogs welcome, Wheelchair loan/hire (1 manual chair). Hearing loop (at visitor desk), Wheelchair access to interactive exhibits,

(DHI, 2015).

There are alternative places where a share of the disabled persons controlled budget can be spent, while still having a day out by the canal. No DHI entry for Middlewich is available to disabled tourists planning to enjoy a canal focused experience.

REFERENCES

BBC (2014), Disabled facilities at UK tourism venues 'must improve' BBC News 16th August 2014, <http://www.bbc.co.uk/news/uk-28804914> Accessed 7th April 2015.

Barnes, C. (1991) Disability and Discrimination in Britain, Hurst and Co. Ltd, London

British Beer Pub Association, (BBPA), (2014), Accessibility in Pubs, <http://www.beerandpub.com/industry-briefings/accessiblity-in-pubs> Accessed 7th April 2014

British Standards Institute, (BSI), (2009) BS8300:2009+A1:2010, Design of buildings and their approaches to meet the needs of disabled people. Code of practice, BSI, London

Buhalis D & Darcy S, (2010), Accessable Tourism, Concepts and Issues, Chanel View Publications, Bristol

Cheshire East Council, (CEC), (2012), LOCAL PLAN Middlewich Town Strategy July 2012 CHESHIRE EAST, http://www.weavervalley.org.uk/wp-content/uploads/2013/01/En_LDF_MiddlewichTownStrategy1.pdf Accessed 30/03/15

Disabled Holiday Information, (DHI), (2015), Anderton Boat Lift, <http://www.disabledholidayinfo.org.uk/search/searchdetail.cfm?EstID=447> Accessed 20th April 2015.

English Federation of Disabled Sports, (EFDS), (2015), Fact and Statistics, http://www.efds.co.uk/resources/facts_and_statistics Accessed 26/03/15

.English Heritage, (EH), (2004), Easy Access to Historic Buildings English Heritage Publication, Swindon

Equality and Human Right Commission, (EHRC), (2014), Creating A Fairer Britain <http://www.equalityhumanrights.com/your-rights/equal-rights/disability/access-services> Accessed 26/03/2015

Goodall B, (2006), Disabled Access and Heritage Attractions, Tourism Culture & Communication, Volume 7, Number 1, 2006, pp. 57-78, Cognizant, Putnam Valley, NY, USA.

Gov. UK, (2014), Definition of disability under the Equality Act 2010 <https://www.gov.uk/definition-of-disability-under-equality-act-2010> Accessed 26/03/15

Grant A,& MacNamara G, (2013), Designing for Accessibility 3rd Edition, RIBA Publishing, London

Imrie R & Kumar M, (1998), Focusing on Disability and Access in the Built Environment, Disability & Society, Vol. 13, No. 3, 1998, pp. 357-374, Routledge, Abingdon, Oxon

Legislation. Gov. UK, (LGUK), (2014), Disability Discrimination Act 1995 <http://www.legislation.gov.uk/ukpga/1995/50/contents> _Accessed 26/03/15

Telegraph, (2014), Britain's 20 most accessible tourist attractions, Telegraph 7th November 2014, <http://www.telegraph.co.uk/travel/destinations/europe/uk/11214015/Britains-20-most-accessible-tourist-attractions.html> Accessed 7th April 2014

Waterman I, & Bell J, (2013), Disabled Access to Facilities, Routledge, Abingdon, Oxon.

Wikipedia (2015a), Disability Discrimination Act 1995, http://en.wikipedia.org/wiki/Disability_Discrimination_Act_1995 Accessed 26/03/15.

Wikipedia (2015b) Middlewich <http://en.wikipedia.org/wiki/Middlewich> Accessed 30/03.15